Preparatory Committee for the Fourth Review Conference
of the Parties to the Treaty
on the Non-Proliferation of Nuclear Weapons

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PRESENT STATUS OF NEGOTIATIONS OF THE CONFERENCE ON DISARMAMENT ON "EFFECTIVE INTERNATIONAL ARRANGEMENTS TO ENSURE NON-NUCLEAR-WEAPONS STATES AGAINST THE USE OR THREAT OF USE OF NUCLEAR WEAPONS"

Background paper by the Secretariat

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INTRODUCTION

1. The Preparatory Committee for the Fourth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, at its first session (1-5 May 1989), invited the Secretary-General of the United Nations to prepare for the Committee's second session a background paper on the present status of negotiations of the Conference on "effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons". At the request of the Committee, at its second session (11-15 September 1989), the background paper has been revised and updated.

2. This report by the Secretariat outlines, as requested, the present status of the negotiations in the Conference on Disarmament and focuses, in particular, on developments since the Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, held in 1985. The paper is based mainly on the official records of the single multilateral negotiating body, the Conference on Disarmament and its predecessor.

I. BACKGROUND

3. Ever since the beginning of the nuclear age, non-nuclear-weapon States, particularly those that do not belong to one of the major military alliances, have emphasized the need for effective measures to ensure their security against the use or threat of use of nuclear weapons. The question of strengthening the security of the non-nuclear-weapon States which have undertaken to renounce their possession of nuclear weapons, was one of the central issues in the course of the negotiations on the Treaty on the Non-Proliferation of Nuclear Weapons. 1/ After prolonged consideration of various options, the three nuclear-weapon States Parties - the Soviet Union, the United Kingdom and the United States - agreed to provide such assurances through a Security Council resolution.

4. On 19 June 1968, the Security Council adopted by 10 votes in favour to none against, with 5 abstentions (Algeria, Brazil, France, India and Pakistan) resolution 255 (1968), sponsored by those three nuclear-weapon States Parties. In this resolution, the Security Council recognized that aggression with nuclear weapons, or the threat thereof, against a non-nuclear-weapon State Party to the non-proliferation Treaty would create a situation that would call for immediate action by the Council and, above all, by its nuclear-weapon States Permanent Members. The Council also welcomed the intention expressed by certain States that they would assist any non-nuclear-weapon State Party to the Treaty that was a victim of an act or threat of nuclear aggression and reaffirmed the right to collective self-defence under Article 51 of the Charter.

5. At the Conference of Non-nuclear-weapon States, held at Geneva in 1968, a Declaration was adopted which expressed, inter alia, the view of a number of non-nuclear-weapon States, that, while welcoming the "positive" assurance provided for in the Security Council resolution, expressed preference for a "negative" assurance, a commitment by nuclear-weapon States that they would not use or threaten to use nuclear weapons against them. 2/ Although this issue has since figured almost uninterruptedly in the agenda of various disarmament forums, no agreed solution has so far been found.

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6. At the First Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons in 1975, the non-nuclear-weapon States recalled again their need for effective measures to ensure their security against the use or threat of use of nuclear weapons. They asked for a binding, unconditional international commitment by the nuclear weapon States to strengthen their security, as an interim measure to nuclear disarmament, which was considered the sine qua non guarantee against nuclear weapons.

7. In the 1978 Final Document of the first special session devoted to disarmament, the General Assembly noted the individual declarations on the question made or reaffirmed by the nuclear-weapon States at its sessions and urged those Powers to conclude effective arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. 3/ An updated version of the declaration can be found in the Annex to the present paper (see also NPT/CONF.IV/PC.II/4, paras. 52-58).

8. Also with the creation of nuclear-weapon-free zones, the non-nuclear-weapon States have searched for negative security assurances. The two Treaties so far concluded to constitute a nuclear-weapon-free zone and a nuclear-free zone, respectively have envisaged negative security assurances, through Additional Protocol I of the Treaty of Tlatelolco (1967) and Protocol 2 of the Treaty of Rarotonga (1985). 4/

9. The question was also actively considered by the Conference on Disarmament. Each year, between 1980 and 1984, an ad hoc committee was established on effective international arrangements to assure non-nuclear-weapon States against the use of nuclear weapons.

10. The substantive discussion, which began in the CCD in 1980, focused first on the scope and nature of such arrangements. While there was general agreement that the objective should be adequate assurances to non-nuclear-weapon States, there have been divergent views as to scope and about various criteria suggested for the application of mutually acceptable arrangements. Although there has been no objection in principle to the idea of an international convention, the difficulties involved have been clearly pointed out, particularly by Western States, which have accordingly suggested that a Security Council resolution might serve as a useful and effective international arrangement, while others, particularly the socialist members, consider that idea only as an interim measure.

11. In its reports to the General Assembly, the Conference on Disarmament had consistently reaffirmed that non-nuclear-weapon States should be effectively assured by the nuclear-weapon States against the use or threat of use of nuclear weapons, pending effective measures of nuclear disarmament. It had, however, also noted that differences relating to differing perceptions of security interests of some nuclear-weapon States and non-nuclear-weapon States persisted and that in those circumstances, no progress had yet been achieved. The General Assembly, for its part, had repeatedly requested the Conference to continue to explore ways and means of overcoming the difficulties encountered in the negotiations in order to reach agreement on such effective international arrangements.

II. STATUS OF NEGOTIATIONS IN 1985

12. The decision to re-establish the Ad Hoc Committee in 1985 was taken only on 1 August, following extended consultations primarily concerning the need for such a body if the positions of the nuclear-weapon States remained unchanged. Those positions were embodied in declarations which all the nuclear-weapon States had given in 1978, some of which had been reiterated and elaborated upon on various occasions subsequently (see Annex I). Accordingly, the Ad Hoc Committee's work was mainly devoted to the preparation of its report 5/ to the Conference.

13. Because of the limited time available to the Ad Hoc Committee, the Chairman held consultations regarding the most efficacious way to deal with the question. He confirmed, as stated in the Committee's report, that the positions espoused by the nuclear-weapon States in previous years had not changed. Most delegations expressed their readiness, however, to engage in substantive dialogue on what they saw as an important agenda item. They held that while complete nuclear disarmament would be the most effective guarantee, it was imperative until that was achieved to develop effective measures to assure the security of non-nuclear-weapon States against the nuclear threat. They reaffirmed the need for a common approach, acceptable to all, which could be incorporated into a legally binding international instrument. Some felt that in the absence of a nuclear disarmament process, no useful purpose could be served through substantive consideration of the item. In that context some recalled earlier documents 6/ to the effect that there was no prospect of reaching agreement until the nuclear-weapon States were ready to change their positions. Other participants felt there might have been progress had the Ad Hoc Committee been established earlier.

14. In the "Conclusions and recommendations" part of its report, the Committee recommended that the Conference continue to explore ways and means to overcome the difficulties encountered in dealing with the question. It also agreed that the Conference should keep the item under active consideration, taking into account the mandate of the Committee and relevant recommendations of the General Assembly.

15. The work of the Conference in 1985 revealed again that the positions of the States on the main elements of the problem - the scope, substance, nature and form of such assurances - had not changed. Nor had it been possible to bridge the divergent views on how the idea of concluding an international convention on the matter could be realized in practice. There was also disagreement on the evaluation and practical significance of the unilateral declarations that had been made by the nuclear-weapon States. This situation led to expressions of disappointment and a certain lessening of interest among some participants in the search for solutions to the issue.

III. STATUS OF NEGOTIATIONS IN 1986

16. During the first part of the session of the Conference, the President held consultations on the question of the re-establishment of an ad hoc committee on the item. Some delegations expressed the view that there was no point in resuming discussion on the question, unless the positions of the nuclear-weapon States had changed or developed since the previous year. Consultations with those States convinced the President that their positions

had not changed. In July, it was agreed that because the session was by that time well advanced, the question of re-establishing an ad hoc committee and the appointment of its Chairman would be taken up at the beginning of the 1987 session.

17. Several delegations addressed various issues relating to the item at plenary meetings 7/ of the Conference. Nigeria considered the nuclear-weapon States' arguments for making their security assurances to be unnecessarily obstructive in nature. It pointed out that there were three categories of non-nuclear-weapon States, namely: (a) non-members of military alliances with no nuclear weapons on their territories; (b) members of military alliances with no nuclear weapons on their territories; and (c) members of military alliances that did have other States' nuclear weapons on their territories. In Nigeria's view, there were feasible treaty formulations for each category, which would be realistic, discourage the geographical spread of nuclear weapons and satisfy the security considerations of all parties. However, finding a consensus formulation required negotiations, and it was not helpful for delegations to prejudge their outcome. Nigeria further held, in referring to the commitments made under the terms of the nuclear non-proliferation Treaty, that if nuclear-weapon States did not totally exclude the use or threat of use of nuclear weapons against States that did not have them, the very basis of the Treaty would become morally indefensible. Pakistan believed that negative security guarantees, perhaps in conjunction with other arrangements such as nuclear-weapon-free zones, could be the appropriate means to protect a region against an external nuclear threat.

18. In general, members of the Group of 21 stressed again their belief that the most effective guarantee against the use or threat of use of nuclear weapons would be nuclear disarmament and the prohibition of nuclear weapons. In their view, until nuclear weapons were eliminated, nuclear-weapon States had an obligation to guarantee in an internationally binding instrument that non-nuclear-weapon States would not be attacked or threatened with nuclear weapons, and they were disappointed at the lack of progress on the question. Some non-aligned States noted that security assurances to non-nuclear-weapon States were the least nuclear-weapon States could expect to give in exchange for the commitment by other States under the non-proliferation Treaty. Some other non-aligned countries stressed that security assurances to non-nuclear-weapon States should be without qualification and pre-conditions, not subject to divergent interpretations and unlimited in scope, application and duration.

19. Bulgaria, speaking on behalf of the group of socialist States, underlined their interest in helping advance the consideration of the subject. Developments in the nuclear field had shown the vulnerability of non-nuclear-weapon States to the use or threat of use of nuclear weapons against them. The socialist countries believed that the Conference should persist in seeking a meaningful solution to the problem of security assurances, one which would be acceptable to all and could be included in an international instrument of a legally binding character. They welcome the solemn declarations made by the Soviet Union and China concerning the non-first use of nuclear-weapons, and they were convinced that if all nuclear-weapon States were to assume obligations not to be the first to use nuclear weapons, that would constitute a ban on their use against all States, including all non-nuclear-weapon States.

20. The socialist countries shared the belief that the most effective guarantee would be nuclear disarmament and the complete elimination of nuclear weapons. Romania held that until that objective was achieved on a universal basis, it was imperative for the international community to develop effective measures to ensure the security of non-nuclear-weapon States.

21. China also expressed the view that the most effective security guarantee to non-nuclear-weapon States would be the complete prohibition and thorough destruction of nuclear weapons. It held that pending nuclear disarmament, all nuclear-weapon States should undertake not to use or threaten to use nuclear weapons against non-nuclear-weapon States and nuclear-free zones and stated that it unconditionally assumed such an obligation. It also supported all efforts conducive to breaking the impasse on the item.

22. Western States drew attention to the unilateral declarations made by France, the United Kingdom and the United States, which they regarded as credible and reliable and which, in their view, amounted to firm declarations of policy. They expressed readiness to continue discussion of the item in an ad hoc committee, but acknowledged that previous experience had shown the difficulties involved in elaborating an international convention on the subject.

23. In 1986, consideration of effective security guarantees to non-nuclear-weapon States did not bring negotiations any closer to an agreement. Unlike the previous year, the work on the issue in the Conference on Disarmament was limited to general discussion in plenary meetings, as no subsidiary body was established for negotiations on the item. The views and positions of States on the scope, substance, form and nature of the envisaged guarantees were similar to those expressed in former years.

IV. STATUS OF NEGOTIATIONS IN 1987

24. On 10 February, the Conference decided to re-establish its ad hoc committee on the item to continue to negotiate with a view to reaching agreement. The Conference had before it a Nigerian proposal 8/ that attempted to break the impasse in achieving an internationally binding agreement to prohibit the use or threat of use of nuclear weapons against most non-nuclear-weapon States. The proposal is discussed below.

25. Comments made at plenary meetings of the Conference 9/ tended to reiterate views already expressed. In general, members of the Group of 21 stressed again that the most effective guarantee against the use or threat of use of nuclear weapons was nuclear disarmament and the prohibition of nuclear weapons. More specifically, Kenya, Pakistan and Yugoslavia emphasized the moral imperative for nuclear-weapon States to categorically assure non-nuclear-weapon States against the threat of nuclear weapons, while Egypt underscored the legitimacy of the non-nuclear-weapon States' demand for assurances. Pakistan felt that security assurances, provided in an international instrument of a legally-binding character, would strengthen the commitment of non-nuclear-weapon States to the non-proliferation régime by acting as a disincentive to acquire nuclear weapons. In its view, assurances must be unconditional and unlimited in scope, application and duration. It felt that the unilateral declarations that had been made so far by the nuclear-weapon States, with one exception, presented insurmountable obstacles

to the elaboration of a common formula for assurances. In an effort at compromise, Pakistan restated its proposal that assurances be extended to all non-nuclear-weapon States outside the major alliance systems. Argentina strongly rejected attempts to place various conditions on the granting of negative security assurances, and it underscored its conviction that the mere possession of nuclear weapons created a climate of intimidation that definitely affected non-nuclear-weapon States.

26. Sweden emphasized once again that the most fundamental element of an effective negative assurance was a legally binding undertaking by the nuclear-weapon States not to use or threaten to use nuclear weapons against non-nuclear-weapon States. It believed though, that non-nuclear-weapon States should not have to make any further commitments beyond that of staying nuclear-weapon-free, a commitment that should be formalized by adherence to the non-proliferation Treaty, by participation in an established nuclear-weapon-free zone, or in other agreed ways which would give it international legal effect.

27. Bulgaria, on behalf of the socialist States, stressed a global approach, which encompassed the elaboration of an international legal instrument to exclude the use of nuclear weapons; the pledging of non-first use of nuclear weapons by all nuclear-weapon States and the setting up of regional arrangements such as nuclear-weapon-free zones. The socialist members continued to support the conclusion of an international instrument to assure non-nuclear-weapon States having no nuclear weapons on their territories against the use or threat of use of such weapons. The socialist States were convinced of the need for a fresh approach to the question and were of the view that recent developments in international politics provided a reliable basis on which to seek that new approach. Hungary suggested that the Ad Hoc Committee survey the latest developments relevant to its work and take advantage of the new situation.

28. The Federal Republic of Germany, the United Kingdom and the United States felt that the Ad Hoc Committee could do useful work under its current mandate. The Federal Republic of Germany was of the view that the concrete measures proposed in the bilateral negotiations in Geneva would have an impact on the urgency, nature and scope of negative security assurances. It went on to say that agreement on a negotiated common formula for an unconditional security assurance to be given by all five nuclear States to non-nuclear-weapon States stood little chance of being translated into practice without prior agreement on stabilizing ceilings for weapons and forces. It therefore suggested that discussion on the item be closely linked with discussion on the items on cessation of the nuclear-arms race and prevention of nuclear war.

29. The Ad Hoc Committee, under the chairmanship of Ambassador Paul von Stülpnagel of the Federal Republic of Germany, considered topics chosen by the Chairman to guide the discussion. Those topics included the consideration of new proposals in the light of recent developments in arms control and international relations as well as possibilities for interim measures and alternatives for action. Some of the relevant developments mentioned were: the agreement reached at the Geneva summit meeting of November 1985, the meeting between the leaders of the two major Powers in Reykjavik in 1986 and the ongoing Soviet-American bilateral negotiations on nuclear and space arms.

In the course of the discussion, a Warsaw Treaty document on military doctrine, adopted in Berlin in May 1987, 10/ and the political undertakings to refrain from the use of force that were included in the 1986 Document of the Conference on Confidence- and Security-building Measures and Disarmament in Europe 11/ were mentioned as being of direct relevance to the work of the Committee. Some members of the Group of 21 differed, however, in their assessment of the recent developments in the field, stating that while they were welcome in themselves, they had little or no relevance to the question of assurances to non-nuclear-weapon States and that they had no positive impact on the unilateral declarations of the concerned nuclear-weapon States.

30. In its paper, Nigeria proposed categorizing the non-nuclear-weapon States according to the diverse military situations they were in and put forward suggestions for the main elements that could be used to form a generally acceptable agreement. Though several delegations considered that the proposal reflected the need for all States to show more flexibility in the light of legitimate security concerns of other States, the primary responsibility of the nuclear-weapon States concerning the issue was strongly stressed during the meetings. Moreover, it was generally agreed that the proposal contained elements that required further study by the Committee.

31. The delegation of the Netherlands brought up a proposal that it had made in 1981 concerning the form in which the elements of a common formula or common approach could be embodied, that is, an integrated Security Council resolution containing the disparate views of the nuclear-weapon States. It also proposed, for immediate consideration, that the Conference adopt a paragraph in its 1987 report recommending a repetition of the nuclear-weapon States' unilateral assurances in a Security Council resolution. That suggestion was not taken up by the Committee.

32. On the whole, the Committee reiterated conclusions and recommendations already reached in previous years, emphasizing that the difficulties relating to differing perceptions of security interests on the part of nuclear-weapon States, on the one hand, and non-nuclear-weapon States, on the other, persisted and that the complex nature of the issues involved continued to prevent agreement on a common formula. The Ad Hoc Committee recommended that ways and means continue to be explored to overcome the difficulties encountered in carrying out negotiations on the question and stated that it was generally agreed that the Committee should be re-established at the 1988 session of the Conference. Delegates underlined the importance of making progress on the issue in the light of the forthcoming third special session of the General Assembly devoted to disarmament.

33. Towards the end of the session, Pakistan stated that the Committee's work had remained unproductive. Pakistan hastened to add, however, that it would not slacken in its search for a satisfactory solution, pointing out that, without negative security assurances, the non-proliferation régime could only be weakened. Poland regretted that its hopes for a fresh, more flexible and more imaginative approach to the problem had not been fulfilled. The United States, for its part, stressed that the Nigerian proposal had served a useful purpose in refocusing attention on the many difficulties involved in elaborating a common formula for assurances to non-nuclear-weapon States.

V. STATUS OF NEGOTIATIONS IN 1988

34. During the general debate at the plenary meetings of the Conference, China announced that, in keeping with its policy of unconditional negative security assurances to non-nuclear-weapon States and nuclear-weapon-free zones, China had signed the relevant Protocol of the South Pacific Nuclear Zone. France restated its position that the search for a common formula should be fully compatible with its unilateral declaration (see Annex). Pakistan, for its part, considered that the unilateral declarations made by four of the five nuclear-weapon States were hardly calculated to enhance the security of States which had renounced their nuclear option and that the insistence on their partial assurances, regrettably, could only weaken the non-proliferation régime. Bulgaria said that the time had come for positive movements on the negotiations of negative security assurances and that this positive move should have a significant impact on strengthening the non-proliferation régime.

35. The Conference re-established on 2 February, its Ad Hoc Committee on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons with a mandate to negotiate with a view to reaching agreement on such arrangements. The Conference appointed Ambassador Dimitar Kostov of Bulgaria as Chairman of the Ad Hoc Committee. The Ad Hoc Committee submitted two reports to the Conference: the first set out the current state of negotiations on the subject, taking into account the negotiations conducted since August 1982, and was incorporated into the special report of the Conference to the General Assembly at its fifteenth special session; 12/ and the second focused on the negotiations and discussions held during the summer part of the session of the Conference. 13/

36. During its consideration of the item, the Ad Hoc Committee had before it the documents of the previous sessions as well as a discussion paper prepared by the Chairman, Mr. Kostov, containing elements of a "common formula" of negative security assurances.

37. During its session, the Ad Hoc Committee continued to examine and negotiate on proposals for a common formula of assurances to be included in an international legally binding instrument and for interim arrangements. Three approaches were discussed with regard to a possible legal instrument: (a) a single common formula; (b) a common formula for each category of non-nuclear-weapon States, established according to certain criteria, such as participation in a military alliance or adherence to the non-proliferation Treaty or other international legal instrument (see the criteria contained in the unilateral declarations of the nuclear-weapon States reproduced in the Annex to this document); and (c) other possible options.

38. Early in the session, Nigeria orally proposed that nuclear-weapon States set aside their various unilateral declarations to facilitate effective negotiations and the adoption of a convention on the basis of a common formula and that any nuclear-weapon State, while ratifying such a convention, preserve the right to make reservations reflecting its unilateral declarations.

39. Some Western delegations, including the Western nuclear-weapon States, saw this as an interesting possible first step that needed further development. Some socialist delegations pointed out that nuclear-weapon States might use the opportunity of ratification of such an international instrument to improve the substance of their unilateral declarations of non-use. Bulgaria and New Zealand pointed to the need for some form of verification procedures to be included in any international instrument of this kind. Some delegations of the Group of 21, in particular Argentina and Pakistan, maintained that a single common formula to which any nuclear-weapon State would have the right to make reservations would not be credible and would not meet the legitimate security concerns of the non-nuclear-weapon States.

40. The Ad Hoc Committee also focused its attention on proposals for establishing categories of non-nuclear-weapon States. 14/ Some socialist delegations felt that such an approach would help the Committee overcome its difficulties in reaching argreement on a single common formula. They pointed out that the approach had the merit of allowing the common formulas of the respective categories of non-nuclear-weapon States to be unconditional and of providing assurance in accordance with the principle of reciprocity of status of obligations of non-nuclear and nuclear-weapon States. The approach could be applied on a stage-by-stage basis, beginning with the largest and easiest category of non-nuclear-weapon States, those non-parties to a military alliance with a nuclear-weapon State. Some delegations of the Group of 21, however, especially Argentina and Pakistan, cautioned that the approach would undermine the perceived consensus that only a single common formula offered a practical and acceptable solution to the problem. Moreover, they believed that such an approach would not be acceptable because it implied that non-nuclear-weapon States should fulfil certain conditions before they could become eligible for assurances against the use or threat of use of nuclear weapons.

41. Some Western delegations, including the Western nuclear-weapon States, stressed that extending assurances to categories of non-nuclear-weapon States would have the effect of limiting the scope of the existing unilateral declarations made by the nuclear-weapon States.

42. Though the Ad Hoc Committee held a structured and goal-oriented debate during the session of the Conference, in which new ideas were explored and a clearer understanding of the many issues involved was achieved, the deliberations on the various approaches proved inconclusive. Members of the Conference, however, reiterated their readiness to continue the search for a common formula for guarantees, in particular one that could be included in an international instrument of legally binding nature. In its report to the Conference, the Committee recommended that it should be re-established at the beginning of the 1989 session in order to continue its work.

VI. STATUS OF NEGOTIATIONS IN 1989

43. At its first meeting, 7 February, the Conference on Disarmament decided to re-establish for the duration of the 1989 session an ad hoc committee to continue negotiations with a view to reach agreement on effective international agreements to assure non-nuclear-weapon States against the

use or threat of use of nuclear weapons. The Conference appointed Ambassador Ali Shams Ardekani of the Islamic Republic of Iran as Chairman of the Ad Hoc Committee. During its sessions, the Ad Hoc Committee reaffirmed that non-nuclear-weapon States should be effectively assured by the nuclear-weapon States against the use or threat of use of nuclear weapons pending effective measures of nuclear disarmament. Work on the substance of the effective arrangements and discussion on various aspects and elements of a solution, however, revealed that specific difficulties relating to differing perceptions of security interests of nuclear-weapon States and non-nuclear-weapon States persisted and that the complex nature of the issues involved continued to prevent agreement on a "common formula". At the same time, the discussion underlined that all delegations supported and expressed their readiness to continue the search for a common approach on the substance of negative security assurances and, in particular, on such a "common formula".

44. Against the aforementioned background the Ad Hoc Committee recommended to the Conference on Disarmament that ways and means should continue to be explored to overcome the difficulties encountered in its work in carrying out negotiations on the question of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. Accordingly, it was agreed that the Ad Hoc Committee should be re-established at the beginning of the 1990 session.

VII. DEVELOPMENTS IN 1990

45. On 6 February 1990, the Conference on Disarmament again re-established, for the duration of the session, an ad hoc committee to continue negotiations on the matter. Ambassador Negrotto Cambiaso of Italy was appointed by the Conference as Chairman of the Ad Hoc Committee.

VIII. RELATED DEVELOPMENTS IN 1989-1990 BEYOND THE SCOPE OF CD

46. On 2 November 1989 Nigeria formally submitted the text of its proposed agreement to the Governments of the three depositary powers of the Treaty on the Non-Proliferation of Nuclear Weapons. The text was accompanied by a request by Nigeria to the Depositary Governments to circulate copies of the proposed agreement to all States Parties to the non-proliferation Treaty and to make the necessary arrangements to convene a conference of States Parties to the Treaty for the consideration of the proposed agreement, preferably during the Fourth Review Conference of Parties to the Treaty scheduled to take place in Geneva in August/September 1990. On 20 February 1990 the Depositary Governments circulated the proposed agreement to all States Parties to the Treaty.

47. Pursuant to the initiative described in paragraph 46, on 1 March, Nigeria formally informed the Conference on Disarmament of its proposal for an agreement on the prohibition of the use or threat of use of nuclear weapons against non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. The text of that proposal, circulated within the Conference on Disarmament as document CD/967, is attached at Annex II to this paper. According to Nigeria the proposal was complementary in nature to the NPT and did not in any way represent an amendment to the Treaty. It was underlined that the proposal was without prejudice to the work of the Conference on Disarmament on Negative Security Assurances. Nigeria

expressed the hope that all parties to the NPT represented in the Conference on Disarmament would lend their valuable support to this initiative when it came up for consideration both at the third session of the Preparatory Committee for the Fourth Review Conference of the Parties to the NPT and at the Review Conference itself.

Notes

1/ General Assembly resolution 2373 (XXII), annex. The text of the Treaty is reproduced in Status of Multilateral Arms Regulation and Disarmament Agreements, 3rd edition: 1987 (United Nations publication, Sales No. E.88.IX.5).

2/ Under a "positive" assurance, nuclear-weapon States would commit themselves, in specific circumstances, to come to the defence of non-nuclear-weapon States, as envisaged, for example, in Security Council resolution 255 (1968). Under a "negative" assurance, nuclear Powers would commit themselves not to use or threaten to use nuclear weapons against non-nuclear-weapon States.

3/ General Assembly resolution S-10/2, sect. III, para. 59.

4/ For the Status of the signature and ratification of these protocols, see Report of the Secretary-General (A/43/686).

5/ Official Records of the General Assembly, Fortieth Session, Supplement No. 27 (A/40/27 and Corr.1), paras. 10 and 12, and appendix III (CD/642), vols. I-V.

6/ Ibid., Thirty-seventh Session, Supplement No. 27 (A/37/27 and Corr.1), appendix II (CD/335), document CD/280, and ibid., Thirty-eighth Session, Supplement No. 27 (A/38/27 and Corr.1), appendix II (CD/421), document CD/407.

7/ CD/732, appendix II, vols. I-IV.

8/ CD/787, appendix I, vol. III, document CD/768.

9/ Ibid., appendix II, vols. I-IV.

10/ Ibid., appendix I, vol. II, document CD/755.

11/ Relevant excerpts from the Document were reproduced in the United Nations publication Disarmament, vol. IX, No. 3 (Sales No. E.86.IX.10).

12/ Official Records of the General Assembly, Fifteenth Special Session, Supplement No. 2 (A/S-15/2), sect. III, paras. 90 and 91.

13/ Ibid., Forty-third Session, A/43/27, sect. III, paras. 81-83.

14/ For further details, see the proposal by Nigeria (CD/768) of 1987 and the 1983 report of the Committee on Disarmament to the General Assembly, issued in Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 27 (A/38/27), para. 7G.

ANNEX I

Unilateral security assurances by nuclear-weapon States

CHINA

In the annex to a letter of 7 June 1978 from the Permanent Representative of China to the Secretary-General, China stated:

> For the present, all the nuclear countries, particularly the super-Powers, which possess nuclear weapons in large quantities, should immediately undertake not to resort to the threat or use of nuclear weapons against the non-nuclear countries and nuclear-free zones. China is not only ready to undertake this commitment but wishes to reiterate that at no time and in no circumstances will it be the first to use nuclear weapons. a/

In a communication of 28 April 1982 to the Secretary-General, the Chinese Government declared:

> Pending the realization of complete prohibition and thorough destruction of nuclear weapons, all nuclear countries must undertake unconditionally not to use or threaten to use such weapons against non-nuclear countries and nuclear-free zones.
>
> As is known to all, the Chinese Government has long declared on its own initiative and unilaterally that at no time and under no circumstances will China be the first to use nuclear weapons, and that it undertakes unconditionally not to use or threaten to use nuclear weapons against non-nuclear countries and nuclear-free zones. b/

FRANCE

On 30 June 1978, the representative of France stated:

> Furthermore, as regards paragraph 59 [of the Final Document of the Tenth Special Session] concerning assurances of the non-use of nuclear weapons against non-nuclear States, the delegation of France would recall that France is prepared to give such assurances, in accordance with arrangements to be negotiated, to States which constitute non-nuclear zones. c/

On 11 June 1982, the Minister for Foreign Affairs of France declared:

> For its part, it [France] states that it will not use nuclear arms against a State that does not have them and that has pledged not to seek them, except if an act of aggression is carried out in association or alliance with a nuclear-weapon State against France or against a State with which France has a security commitment. d/

SOVIET UNION

On 26 May 1978, the Minister for Foreign Affairs of the Soviet Union stated:

> From the rostrum of the special session our country declares that the Soviet Union will never use nuclear weapons against those States which renounce the production and acquisition of such weapons and do not have them on their territories.
>
> We are aware of the responsibility which would thus fall on us as a result of such a commitment. But we are convinced that such a step to meet the wishes of non-nuclear States to have stronger security guarantees is in the interests of peace in the broadest sense of the word. We expect that the goodwill evinced by our country in this manner will lead to more active participation by a large number of States in strengthening the non-proliferation régime. e/

On 12 June 1982, the Minister for Foreign Affairs of the Soviet Union read a message from the President of the Presidium of the Supreme Soviet of the USSR, according to which the Soviet Union assumed "an obligation not to be the first to use nuclear weapons. This obligation shall become effective immediately, at the moment it is made public from the rostrum of the United Nations General Assembly". The Soviet Union added that the question of the granting of security guarantees to the non-nuclear countries parties to the non-proliferation Treaty by the nuclear Powers "could be solved by concluding an international convention. The USSR is also prepared to conclude bilateral agreements on guarantees with States which do not possess nuclear weapons and do not have them on their territory. f/

UNITED KINGDOM

On 28 June 1978, the representative of the United Kingdom declared:

> I accordingly give the following assurance, on behalf of my Government, to non-nuclear-weapon States which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons and to other internationally binding commitments not to manufacture or acquire nuclear explosive devices: Britain undertakes not to use nuclear weapons against such States except in the case of an attack on the United Kingdom, its dependent territories, its armed forces or its allies by such a State in association or alliance with a nuclear-weapon State. g/

UNITED STATES

In the annex to a letter of 17 November 1978 from the representative of the United States to the Secretary of the First Committee, the United States cited a Presidential Declaration which read as follows:

> The United States will not use nuclear weapons against any non-nuclear-weapon State Party to the NPT (non-proliferation Treaty) or any comparable internationally binding commitment not to acquire nuclear explosive devices, except in the case of an attack on the United States, its territories or armed forces, or its allies, by such a State allied to a nuclear-weapon State or associated with a nuclear-weapon State in carrying out or sustaining the attack. h/

Notes

a/ A/S-10/AC.1/17, annex, para. 7.

b/ A/S-12/11.

c/ Official Records of the General Assembly, Tenth Special Session, Plenary Meetings, 27th meeting, para. 190.

d/ Ibid., Twelfth Special Session, Plenary Meetings, 9th meeting.

e/ Ibid., Tenth Special Session, Plenary Meetings, 5th meeting, paras. 84 and 85.

f/ Ibid., Twelfth Special Session, Plenary Meetings, 12th meeting.

g/ Ibid., Tenth Special Session, Plenary Meetings, 26th meeting, para. 12.

h/ Ibid., A/C.1/33/7, annex. The Presidential Declaration was also cited by the representative of the United States on 23 June 1978 in Official Records of the General Assembly, Tenth Special Session, Ad Hoc Committee of the Tenth Special Session, 13th meeting.

ANNEX II

Proposed agreement on the prohibition of the use or threat of use of nuclear weapons against non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons
(proposal by Nigeria)

The States Parties to this Agreement,

Being also parties to the Treaty on the Non-Proliferation of Nuclear Weapons opened for signature at London, Moscow and Washington on 1 July 1968 (hereinafter called "the Treaty"), have hereby accepted the following provisions:

Article I

Each nuclear-weapon State Party to this Agreement undertakes not to use or threaten to use nuclear weapons against any non-nuclear-weapon State Party to the Treaty which does not belong to a military alliance and does not have other security arrangements providing for mutual defence with a nuclear-weapon State.

Article II

Each nuclear-weapon State Party to this Agreement undertakes not to use or threaten to use nuclear weapons against any non-nuclear-weapon State Party to the Treaty which belongs to a military alliance, or have other security arrangements providing for mutual defence, with a nuclear-weapon State but has no nuclear weapons stationed on its territory. The non-nuclear-weapon State Party to the Treaty referred to in this Article undertakes not to partake in, or contribute to, any military attack on any nuclear-weapon State Party to this Agreement, or its allies, Parties to the Treaty, except in self-defence, in accordance with the Charter of the United Nations.

Article III

1. This Agreement shall be signed and shall be subject to ratification, or may be acceded to, as if the provisions of Article IX of the Treaty applied hereto.

2. This Agreement shall enter into force in respect of each State on the date of deposit of the instrument of ratification or accession of the State concerned.

3. The duration of this Agreement shall be the same as that of the Treaty and the provision regarding denunciation contained in Article X, paragraph 1, of the Treaty shall be applicable to it.

Article IV

This Agreement, the English, Russian, French and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Agreement shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

In witness WHEREOF the undersigned plenipotentiaries, having deposited their full powers, found to be in good and due form, hereby sign this Agreement on behalf of their respective Governments.

Done in triplicate, at the cities of London, Moscow and Washington, the ..... day of ..... one thousand nine hundred and .....